

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 US BANK NATIONAL ASSOCIATION, AS) Case No.: 13-CV-00364
11 TRUSTEE FOR BEAR STEARNS ARM)
12 TRUST, MORTGAGE PASS-THROUGH) **ORDER RE MOTION TO REMAND**
13 CERTIFICATES SERIES 2005-10) **(Re: Docket No. 6)**
14 Plaintiffs,)
15 v.)
16 ALFRED SILVA, and DOES 1 to 10, Inclusive,)
17 Defendants.)

18 On January 30, 2013, Defendant Alfred Silva (“Silva”) removed this case from Santa Clara
19 County Superior Court. Plaintiffs US Bank National Association, as Trustee for Bear Stearns Arm
20 Trust, Mortgage Pass-Through Certificates Series 2005-10 (“Plaintiffs”) brought an unlawful
21 detainer action against Defendants in state court, and Defendants removed the case to federal court
22 on the basis of presenting a defense or claims under The Protecting Tenants at Foreclosure Act, 12
23 U.S.C. § 5220. The parties have consented to magistrate jurisdiction.¹

24 Federal courts are limited in their jurisdiction to either (1) diversity cases where citizens of
25 two different states have a dispute involving an amount in controversy that exceeds \$75,000 or (2)

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27 ¹ See Docket Nos. 7, 16; see also 28 U.S.C. § 636.
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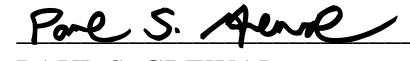
federal questions where the cause of action - not the defense - "arises under" federal law.² The parties have not alleged diversity, nor does the cause of action plead in the complaint – unlawful detainer – arise under federal law. The court also notes that the Protecting Tenants at Foreclosure Act does not provide a cause of action for tenants.³

Defendant only argues that the case should be retained because he is planning to file another action, *Farah v. Wells Fargo*, which should be related to this case. He argues *Farah v. Wells Fargo* will involve causes of action for fraud and deceptive business practices, which invoke a federal question. But even if a relation could save an otherwise infirm claim, Defendant has provided no proof that such a case has been filed, and no motion to relate or consolidate has been made. This court, therefore, lacks subject matter jurisdiction to hear the case.

Accordingly, the court hereby ORDERS that this case be remanded to Santa Clara County Superior Court.

IT IS SO ORDERED.

Dated: March 15, 2013


 PAUL S. GREWAL
 United States Magistrate Judge

² See 28 U.S.C. § 1331; *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 154 (1908).

³ See *Nativi v. Deutsche Bank National Trust Co.*, Case No. 09-6096 PVT, 2010 WL 2179885 (N.D. Cal. May 26, 2010).